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ABSTRACT

This report evaluates the impact of two types of initiatives for involving real estate developers in building or supporting new child care facilities. These initiatives are: (1) linkage, a legislative mandate that requires developers to construct a child care space or contribute to a child care fund; and (2) bonuses, or zoning incentives that reward developers who build child care facilities. Interviews were conducted with nearly 100 government officials, legislators, city planners, developers, employers, and child care advocates in more than 30 communities which have implemented or are considering some form of developer initiative. Some developers oppose linkage as an unfair tax, and some oppose linkage because of incompatibilities between building codes and requirements for child care. Linkage has increased the child care supply, and improved access to child care. Bonuses are appealing to developers because they are voluntary. Bonuses have resulted in the construction of only seven child care centers. A series of eight recommendations for improving the effectiveness of developer initiatives is offered. Appendixes include lists of contacts for information about linkage and bonuses, and copies of the San Francisco, California, child care ordinance and the Seattle land use director's rule. A 77-item bibliography is provided. (BC)

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BUILDING LINKS: DEVELOPER INITIATIVES FOR FINANCING CHILD CARE

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CCAC SPECIAL REPORT #2: STATE FINANCING ALTERNATIVES PROJECT

BUILDING LINKS: DEVELOPER INITIATIVES FOR FINANCING CHILD CARE

CHILD CARE ACTION CAMPAIGN

Prepared By:
Caroline Eichman,
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Donna Euben

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Elinor Guggenheimer
President
Child Care Action Campaign

BUILDING LINKS: DEVELOPER INITIATIVES FOR FINANCING CHILD CARE

EXECUTIVE SUMMARY

Sweeping changes in the American family and the economy are forcing traditional assumptions about the family and workplace to change. Employers, challenged to attract and retain qualified workers in a tightening labor market, are focusing increased attention on work and family benefits, especially child care. At the same time, state and local governments, their budgets severely strained, are turning to the private sector to help finance child care.

Since the mid-1980's, there has been increasing interest in encouraging real estate developers to build or help pay for new child care. Public leaders, tying the need for child care to new commercial and residential developments, have developed a range of approaches, including legislative initiatives and developer bonuses, that either require developers to provide child care or give them incentives for doing so. Because these efforts have brought new players into the child care field, they have generated a tremendous amount of interest among policymakers, in the media, and among developers themselves.

WHAT ARE DEVELOPER INITIATIVES?

CCAC has identified three ways that developers are becoming involved in the financing of child care. They include:

1) **Legislative mandates** which require developers to construct child care space or contribute to a child care fund;

2) Zoning **incentives** that reward developers who build child care; and

3) **Voluntary** developer involvement and support for child care.

In this report, CCAC examines linkage, a legislative mandate, and bonuses, a zoning incentive, and evaluates their impact on the supply of, and access to, child care in the communities in which they have been implemented. CCAC conducted interviews with close to 100 key government officials, legislators, city planners, developers, employers, child care providers and advocates in more than 30 localities which have implemented, or are considering, some form of developer initiative.

Child care linkage and bonus programs have been implemented in 13 communities to date. An additional 14 communities are considering such initiatives. Together, linkage and bonus

programs have resulted in the construction of 35 child care centers, serving an estimated 1,535 children. In addition, developers have paid over $3 million in fees to local governments for child care. Due to the long term nature of development, and the fact that seven of the existing linkage and bonus programs have been in effect for two years or less, conclusions about the impact of developer initiatives on child care can only be preliminary. However, these initiatives do appear to be one way to increase the supply of child care and can be part of an overall community plan for providing and financing such services.

LINKAGE

Linkage is legislation that requires developers either to build a child care facility on or near their development site, or to pay a fee into a local community child care fund. Linkage ordinances originated in the California communities of Concord and San Francisco in 1985, and have since been implemented in the California cities of Clayton, Danville, Martinez, and San Ramon; in Contra Costa County, California, and in Boston, Massachusetts. Linkage and related ordinances are currently being considered in 12 other cities and counties across the country. Statewide linkage legislation is also under consideration in Massachusetts and New Jersey.

Proponents of linkage argue that developers who profit from their new developments should bear some of the social cost that these projects impose on the community. Proponents must be able to demonstrate a connection between new development and the need for additional community child care facilities and services. They should also evaluate the local real estate market; linkage can work only where the real estate market is strong enough to encourage developers to build in spite of mandates.

Linkage: The Developer Perspective

Developers may oppose linkage, arguing that such ordinances impose an unfair tax, and that additional costs will be passed on to tenants and buyers. Some developers feel that they are being singled out as the only group to solve the child care problem in their community, and that linkage mandates are not necessary because market forces will encourage them voluntarily to offer child care in their projects. Some developers, concerned about their community image, are reluctant to oppose linkage publicly. Incompatibilities between state and local licensing and building codes, and linkage requirements for child care, can lead to developer opposition to linkage. Developers may perceive child care licensing and building codes as interfering with their ability to build child care space, while child care advocates find such requirements an important means of maintaining quality programs.

Linkage: The Results

Linkage has increased the child care supply, improved access, and in some instances improved the quality of child care in the eight communities where it has been implemented. Child care linkage ordinances have resulted in the construction of 28 child care centers, serving over 1,000 children. Linkage legislation can be written so that services are targeted to individuals who most need it, such as low and moderate income families. However, linkage, by law, cannot address pre-existing child care needs in a community; it can legally address only those needs created by the new developments. Linkage will be most effective if implemented before much of the growth and development in a community has occurred.

BONUSES

A bonus is a common planning tool which permits developers to construct a project beyond the bounds of existing zoning regulations in exchange for the provision of a service, such as a child care center.

A child care bonus is currently offered to developers in five communities: Seattle, Washington; Hartford, Connecticut; Cincinnati, Ohio; Irvine, California; and Portland, Oregon. The City of Los Angeles is considering the implementation of a child care bonus.

The primary goal of the child care bonus is to increase the supply of child care -- most often in a downtown commercial district. Some bonuses specifically stipulate who will benefit from the child care space (e.g. employees, low to moderate income families) and whether the center should be operated by a for-profit or non-profit entity.

Bonuses: The Developer Perspective

Bonuses are appealing because they are voluntary: developers are given the choice to offer child care in their development projects and are rewarded for doing so. Like linkage, developers trying to take advantage of a bonus frequently encounter building codes and licensing requirements that are incompatible with the conditions specified in the child care bonus that is offered.

Bonuses: The Results

In the five cities in which child care bonus programs exist, only seven child care centers are expected to be built, serving over 400 children. However, although bonus plans have yet to increase significantly the supply of child care in a community, some bonus provisions have helped to increase developer and employer awareness of the merits and importance of offering child

care in their buildings. By allowing developers to increase the size of their development projects in excess of existing zoning requirements, a community says that it is willing to trade off other benefits for child care. For example, a community may give up a certain amount of downtown sunlight in exchange for child care.

The success of a bonus program is highly dependent on the amount of publicity the community awards the child care bonus, the degree to which child care licensing and building codes are consistent with the bonus requirements, and the extent to which community development is occurring. Child care bonus programs should offer developers enough additional floor space so that it is to their advantage to select the child care bonus. Community officials must offer technical assistance to developers about how to take advantage of the bonus.

VOLUNTARY DEVELOPER INITIATIVES

In addition to government mandates and incentives, many developers are responding to an increased need to compete for tenants by providing child care as an amenity. Developers are finding that child care is an amenity that gives them a competitive edge -- that can help them to attract and retain their commercial tenants or residential buyers, and to improve their public relations and community image.

RECOMMENDATIONS

Linkage and bonuses have, so far, had a relatively small impact on the overall supply of child care. These initiatives have, however, resulted in the construction of some new spaces or monies for child care. Advocates for linkage must weigh the effort of implementing such legislation against the potential results. In order to make developer initiatives as effective as possible, community leaders, planners, and child care advocates should:

- **Evaluate market conditions**
- **Define goals**
- **Involve the public and private sectors in the planning process**
- **Launch a public education and outreach campaign**
- **Coordinate the regulatory processes**
- **Establish a local contact person to provide guidance to developers**
- **Institute an evaluation and tracking mechanism**
- **Integrate developer initiatives into an overall community plan for child care delivery**

BUILDING LINKS: DEVELOPER INITIATIVES FOR FINANCING CHILD CARE

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BUILDING LINKS: DEVELOPER INITIATIVES FOR FINANCING CHILD CARE

INTRODUCTION

BUILDING LINKS: Developer Initiatives for Financing Child Care, is the second of a series of Child Care Action Campaign (CCAC) Special Reports on Financing Alternatives for Child Care. CCAC is analyzing a series of off-budget strategies for increasing funding for child care. This report examines the ways in which communities -- cities, counties, and states -- across the country have begun to involve real estate developers in financing child care.

CCAC has identified three ways in which developers are becoming partners in the effort to address the child care crisis:

1) Legislative **mandates** which require developers to construct child care space or contribute to a child care fund;

2) Zoning* **incentives** that reward developers who build child care; and

3) **Voluntary** developer involvement and support for child care.

Research Methodology

In order to evaluate the impact of developer initiatives on increasing the supply of, and improving access to, child care, CCAC interviewed close to 100 key government officials, legislators, city planners, developers, employers, child care providers and child care advocates in more than 30 localities that have implemented, or are considering, some form of developer initiative. In particular, CCAC examines linkage, a legislative mandate, and bonuses*, a zoning incentive. Interviews were conducted over a seven month period, from November 1989 through May 1990.

*** Throughout the text, an asterisk [*] indicates that a definition for the indicated word may be found in the Glossary Of Terms, Appendix I, pg. 35.**

THE HISTORICAL ROLE OF DEVELOPERS

Developers' involvement with the provision and financing of community services dates back to the 1920's, when states first adopted statutes granting local governments the legal authority to regulate the development of land. Localities began to incorporate development projects into their local plans and require that developers assist with the provision of local infrastructure needs related to community growth and development. These included streets, sewer lines, and other utility structures.

In the 1950's, suburban authorities, unable to increase their revenues by taxation, began to require developers to set aside or dedicate land for local needs such as schools and playgrounds. Often the amount of land to be dedicated was related to the size of the development project, or to the number of potential users of the facility or service. When flexible zoning became widespread in the 1960's, bargaining agreements between developers and local authorities over project requirements became common.

HOW DEVELOPMENT FILLS THE FUNDING GAP

As public and private leaders become more and more aware of the child care needs of their communities, state and local governments are feeling the strains of fiscal austerity. Federal aid to local governments to finance infrastructure has declined from about $21 billion in 1982 to $17 billion in 1988.[1] The National Association of Counties estimates that an $8.6 billion gap exists between county infrastructure needs and resources available to meet those needs.[2]

The declining role of the federal government in providing financial assistance to local governments, together with the increased public resistance to more taxation, has created budget deficits in many communities. Local governments, hard-pressed to meet their growing infrastructure demands, are experimenting with creative new approaches to financing them, and are turning to developers to assist with the construction or financing of key community services. Child care has become one of those community services.

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[1]John Herbens, "The Growing Role of the States is Greater Than We Knew," Governing 3, No. 6 (March 1990): p. 11. These numbers are not adjusted for inflation.

[2]Eli Adams, William Lurz, and Dan McLeister, "WARNING: Concern Grows Over Land-Use Regulations," Professional Builder, (October 1987): p. 148.

THE DEVELOPMENT MARKET

Compared to its growth from the early to mid 1980's, development is expected to slow considerably in the 1990's. The development market, while highly sensitive to regional variations, demographic, and economic conditions, is becoming more and more competitive.

The states of the current and future real estate markets are key determinants of the potential success of any developer child care initiative. Linkage will be most successful where there is strong developer demand to build. Child care bonuses may, however, be successful in soft development markets where competition among developers for tenants is high. If developers believe that offering child care in their buildings will give them a competitive edge, developers can be encouraged to take advantage of the bonus.

The vitality of the real estate market largely depends upon the economy. Some economic forecasters predict a slowdown in consumer spending; they say that the less than 1% growth rate projected for the next several years will lead to reduced demand for, and construction of, office and luxury residential space.[3] Others argue that a slowing economy may lower interest rates and, in turn, stimulate the construction of housing. Office development, responding to predictions of a growing service sector, and mixed-use development projects that combine office, hotel, retail, or residential space, may experience growth in the 1990's.[4]

THE CHILD CARE MARKET

Today, 36 million children -- or 57% of all children under 18 years of age -- are living in families where either both parents or their sole parent is in the labor force.[5] Since the 1970's, the number of children under age six with mothers in the labor force increased by 80%. With current trends in female labor force participation expected to continue, by 1995 nearly two-thirds of all preschoolers (15 million), and over three-fourths of all school-aged children (28 million), will have mothers in

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[3]The Urban Land Institute, p. 5.

[4]The Urban Land Institute, p. 46.

[5]United States Congress, House Select Committee on Children, Youth, and Families, "U.S. Children and Their Families: Current Conditions and Recent Trends, 1989," report prepared by the Select Committee, 101st Congress, 1st session, 1989.

the labor force.[6]

As baby boomers give birth to a new generation -- the "echo" generation -- and as more and more women seek employment, the demand for child care will continue to escalate.

The Child Care Supply

There are approximately 65,000 licensed child care centers caring for over 1.5 million children in the United States and an estimated 160,000 licensed or registered family day care or group homes that care for nearly 1 million children.[7] [See Appendix II, pg. 36 for a detailed discussion of child care arrangements.] The National Family Day Care Association estimates that between 15% and 90% of all family day care is unregulated or unlicensed, and that over five million children currently receive care in a family home setting.[8]

However, national statistics on child care availability are limited and do not provide a clear picture of actual child care supply. In addition, information on parental preferences for child care is scarce. The research that does exist reveals that there are significant shortages of particular types of care in certain communities, and that affordable care of acceptable quality is in short supply. There has also been a trend toward the use of more formal child care arrangements, especially child care centers.

Employers and Child Care

The number of employers that offer child care support to their employees has risen by 400% over the past 10 years.[9] The Families and Work Institute estimates that 5,400 of the nation's 6 million employers currently provide some kind of child care support to their employees, with 1,200 employer sponsored on-site

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[6]Sandra L. Hofferth, "What is the Demand for and Supply of Child Care in the United States?," Young Children (July 1989): p.29.

[7]Thorman, George, "Day Care...An Emerging Crisis," Charles C. Thomas, Springfield, IL, (1989) : p.3.

[8]Interview, Staff, The National Family Day Care Association, Washington, D.C.

[9]Interview, Dana Friedman, Co-President, Families and Work Institute and CCAC Board Member, New York, N.Y., May 1990.

or near-site child care centers in the United States.[10]

Projections of a declining labor force and a shortage of qualified workers are forcing employers to consider new ways to address the needs of their workforce. Growing numbers of employers see child care as a way to attract and retain employees.

WHY SHOULD DEVELOPERS GET INVOLVED IN CHILD CARE?

A Way to Attract Tenants

Developers in today's intensely competitive office market are beginning to recognize that it makes good business sense to make provisions for child care for their tenants and employees.[11] As employers realize the benefits of providing child care to their employees -- benefits such as increased productivity, decreased absenteeism and turnover rates, as well as the ability to attract and retain a qualified workforce -- more developers will respond to their tenants' demands, and provide space for child care.

A Way to Improve Community Image

As developers come under increasing pressure to cultivate good relations with local communities, they will find it in their interest to provide services that will benefit the community.

The Population/Environment Balance, Inc., a national research organization, found that 128 communities nationwide placed growth limits on development in 1986.

> "New development is now viewed....with caution and sometimes with suspicion. Growth is perceived as synonymous with inconvenience....for many communities, slowing down growth is the answer."[12]

A developer's contribution to child care -- either by building space or paying a fee -- will not only improve the quality of life in a community, but demonstrate a developer's

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[10]Interview, Dana Friedman, Co-President, Families and Work Institute and CCAC Board Member, New York, N.Y., May 1990.

[11]Drennon, Katheryne Chappell. "Child Care in Business Parks: A Guide For Developers." Publication Series Monograph 106. Arlington, Virginia: National Association of Industrial and Office Parks, 1988: p. 27.

[12]The Urban Land Institute, p. 13.

sensitivity to the needs of the community.[13]

[13]Patricia Siegel, "A Developer's Guide to Child Care" (San Francisco: California Child Care Resource and Referral Network, California Child Care Initiative, 1986), p. 7.

MANDATED INITIATIVES: LINKAGE

What is "Linkage"?

Linkage is a common planning tool used to address a variety of community problems. It is legislation that directs developers to provide, or help pay for, a community service. Child care linkage ordinances mandate real estate developers to build child care facilities on or near their development sites, or to pay a fee, commonly referred to as an in-lieu or impact fee, into a community fund established solely for child care purposes. Public officials and urban planners make the case that developers who benefit from their development projects should also bear some of the responsibility for the increased demand for public services that their projects generate.

Where Has Linkage Been Adopted?

In 1985, two California communities -- the City of Concord and the City and County of San Francisco -- became the first to pass child care linkage legislation. Since then, child care linkage ordinances have been implemented in the California cities of Clayton, Danville, Martinez, and San Ramon; in Contra Costa County, California, and in Boston, Massachusetts. Child care linkage ordinances are currently being considered in 13 communities across the country, including Milwaukee, Wisconsin; New York City, New York; Pittsburgh, Pennsylvania; and in Antioch, Davis, Napa, Pasadena, Sacramento, Sunnyvale, Santa Cruz County, and Vallejo, California. Statewide linkage is also under consideration in Massachusetts and in New Jersey. [See Chart A, pg. 21 for a complete list of where developer initiatives have been implemented or are currently under consideration.]

Linkage has been particularly popular in localities in California since the passage of Proposition 13 in 1978, which severely curtailed the ability of local jurisdictions to raise general revenues. In haste to find alternative means by which to finance public services, coupled with the development boom that many California cities have experienced over the past ten years, linkage has become a popular option.[14]

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[14]Interview, Abby J. Cohen, Attorney at Law, Child Care Law Center, and CCAC National Advisory Panel Member, San Francisco, CA, January 1990.

Conditions For Linkage

Linkage must be both "workable" and "defensible".[15] First, it must benefit both the developer and the community without imposing unacceptable burdens on either. Second, the program must have a sufficient legal foundation; the community must have the authority to mandate linkage.

The Economics Must Be Right

For linkage to work, the economy must be strong enough so that developers will build, regardless of the requirements imposed upon them. Linkage ordinances will be particularly successful in high growth areas with competitive development markets. If the market is weak, or if existing fees and taxes have already eroded incentives to build, developers will not build.[16],[17]

The Rational Nexus Test

A successful linkage argument must pass the rational nexus test: it must prove that there is a direct connection between a new development and the need for additional community child care facilities and services. According to Abby Cohen, Attorney with the Child Care Law Center and principal author of the San Franciso linkage ordinance:

> "A government seeking to pass linkage needs to show there is a pre-existing shortage of child care, not so that the fee will take care of the pre-existing shortage, but to demonstrate that the need generated by the development cannot be absorbed by existing facilities. Second, there must be a substantial relationship between what it's [the government] charging or requiring and the cost of meeting the need generated."[18]

If the conditions of the nexus test are not met, a municipality leaves itself open to legal challenges to the

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[15]Christine I. Andrew and Dwight H. Merriam, "Defensible Linkage", American Planning Association Journal (Spring 1988): p. 200.

[16]Andrew and Merriam, p. 200.

[17]Interview, William Constable, A.W. Perry Inc., Boston, MA, April 1990.

[18]Interview, Abby J. Cohen, Attorney at Law, Child Care Law Center, and CCAC National Advisory Panel Member, San Francisco, CA, January 1990.

legitimacy of its linkage ordinance.

Trends In Enacting Linkage

Linkage has most often been passed in communities with an historical commitment to child care or as part of a comprehensive redevelopment plan.

In Concord, California, linkage legislation came about within the context of a political environment sympathetic to the child care needs of its citizens. Lydia DuBorg, Director of Urban Resources, City of Concord, explains:

> "Concord had a ten year history of funding child care projects....The City Council, in which three out of five members were women, was committed to child care...."[19]

In the early 1980's, city officials in Concord realized that development was going to increase rapidly in the years to come and saw that new development would stimulate demand for public services, straining the municipal budget. Local officials evaluated the increased demand for child care associated with the growing employment base, and passed a linkage ordinance in 1985.[20]

In San Francisco in 1985, Supervisor Nancy Walker spearheaded the campaign for linkage. With over 40% of San Francisco's children on waiting lists for licensed quality child care, Supervisor Walker saw linkage as an opportunity to improve the child care situation. She proposed that a section of the new San Francisco Downtown Plan require developers to contribute to the growing child care needs of downtown employees.

The City of Boston, Massachusetts is in the early stages of implementing child care linkage as part of a comprehensive downtown rezoning plan -- the Midtown Cultural District Plan -- which aims to "promote balanced growth for Boston."[21] The Plan also provides for the building of low and moderate income housing, and for the installation of public art. The Mayor's

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[19]Interview, Lydia DuBorg, Director of Urban Resources, City of Concord, Concord, CA, December 1989.

[20]Colleen Coll and Diane Longshore, "Funding Child Care With Developer Fees," Western City (July 1986): p. 13-14.

[21]Commonwealth of Massachusetts, City of Boston in Zoning Commission, Downtown Zoning Midtown Cultural District Plan, Plan to Manage Growth, (Boston: Boston Redevelopment Authority, February, 1989), p. 1.

support for the Plan is seen as essential to its success.[22]

Of the 21 communities that have passed or are considering linkage ordinances, 12 either borrowed the idea from, or directly modeled their ordinance after, the San Francisco ordinance.

Developing a Successful Linkage Proposal

Step #1: A Local "Champion" Identifies the Need for Child Care and Links it to Development

Linkage is often brought to the policy agenda when high community growth and development is either occurring or projected to occur in the future, and when at least one "champion" identifies child care as an important issue.

Step #2: Convincing Key Players of the Benefits to Linkage

Convincing leaders in the business and development community to accept linkage is the most difficult and the most important step in passing child care linkage. A successful campaign for linkage requires a broad base of support and involvement.

The Boston Redevelopment Authority, overseeing implementation of the Midtown Cultural District Plan in Boston, Massachusetts, was able to resist opposition to linkage because of its broad base of support. Their alliance included providers, child care and municipal leaders, members of women's groups, the City Council, and Mayor Raymond Flynn.[23]

In Concord, California, a task force was formed with members representing a mix of public and private interests. Developers, the Chamber of Commerce, government officials, and child care advocates came together to examine the issues. There were one and a half years of discussion and public hearings before the ordinance was born.[24]

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[22]Interview, Kristen McCormack, Director, Midtown Cultural District, Boston Redevelopment Authority, Boston, MA, December 1989.

[23]Interview, Kristen McCormack, Director, Midtown Cultural District, Boston Redevelopment Authority, Boston, MA, December 1989.

[24]Interview, Lydia DuBorg, Director, Director of Urban Resources, City of Concord, CA, December 1989.

Step #3: Designing a Linkage Ordinance[25]

Communities must make three decisions when designing a linkage ordinance.

1) What are the goals of a linkage ordinance?

2) What type of development will be subject to linkage?

3) What will the specific requirements of the ordinance be?

What are the Goals of a Linkage Ordinance?

1. To Increase the Supply of Child Care

If the goal of an ordinance is to increase the supply of child care, then the ordinance will usually stipulate that a developer construct a child care facility and will not permit a developer to pay a fee in-lieu of providing space.

In Pittsburgh, Pennsylvania, a linkage ordinance is currently being drafted that would require developers to build either an on- or near-site child care facility. An ordinance pending in Sacramento, California, has also been written without a fee option because the City of Sacramento wants to increase the child care space available.[26] Boston, Massachusetts' downtown rezoning ordinance requires that developers build child care facilities in order to increase the available supply of child care for building employees, low and moderate income families, and downtown residents.

2. To Target a Specific Group of Child Care Recipients

In some instances, the ordinance may be written not only to increase the supply of child care, but also to help certain groups of families or children who need child care.

In San Ramon, California, a linkage ordinance was designed to address the shortage of school-aged child care facilities to enable the City to meet the existing and future school-aged child

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[25]For an example of a linkage ordinace, see the 1985 San Francisco Child Care Linkage Ordinance, Appendix III, page 39.

[26]Interview, Jacquie Swaback, Child Care Coordinator, City of Sacramento, Sacramento, CA, February 1990.

care needs.[27]

The Boston, Massachusetts linkage ordinance requires that priority be given to low and moderate income families.

The linkage bill pending in the Massachusetts State legislature calls for the construction of new child care space and specifies that priority for child care be given first to low and middle income families working in the development project, then to low and middle income families living in close proximity to the project, and then to other families in the community.[28]

3. To Improve Quality of Care

Concord, California, has found a wide variety of uses for the child care fees it has collected: to offer training scholarships to child care providers, to operate a provider training program, and to subsidize child care for low income working families.[29] According to Ronda Garcia, Deputy Director of the Contra Costa Child Care Council, a local California resource and referral (R&R) agency in Contra Costa County that administers Concord's Child Care Program:

> "Parents are thrilled with our Quality Enhancement Program. We now have standards for quality child care and everyone knows who has gone through the training program and who hasn't."[30]

What Type of Development Will Be Subject to Linkage?

Linkage legislation can be targeted to commercial development, residential development, or to both, depending upon whether the community is highly residential or urban, and where

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[27]The City of San Ramon, Ordinance of the City of San Ramon Levying Fees For Child Care Facilities, Ordinance No. 115, January 12, 1988.

[28]Interview, Laura Barrett, Massachusetts Public Interest Research Group (MASSPIRG) Consumer Program Director, Boston, MA, February 1990.

[29]There are legal constraints on how the developer fees that are collected can be used. Specifically, the fees must be directed to address the demand that the new development creates. Not all communities may be able to allocate their developer fees for as wide an array of services as Concord.

[30]Interview, Ronda Garcia, Deputy Director, Contra Costa Child Care Council, Concord, CA, March 1990.

growth is occurring.

Concord, California, imposed linkage on new commercial, office or industrial developments. City planners drew a clear link between the increased demand for child care and the job growth that the development stimulated. In San Francisco, California, the Downtown Office and Hotel Affordable Child Care Program Ordinance mandates that office and hotel projects, construction of which was booming in 1985, be subject to linkage. The ordinance was also an outgrowth of an overall revision of the downtown redevelopment plan, which had a commercial development focus. The Contra Costa County, California linkage ordinance is directed at both residential and non-residential developments.

What Will the Specific Requirements of the Ordinance Be?

Six of the eight linkage ordinances that have been implemented allow the developer to choose between constructing a child care facility or paying an in-lieu fee into a child care fund. All of the ordinances grant exemptions to developers who can show that their projects will not create or expand the need for child care. Allowing fees in-lieu of facility construction gives the government agency more control over the distribution of child care resources.

The San Francisco, California linkage ordinance was written to encourage developers to pay a fee rather than provide child care space. Developers of office and hotel projects of over 50,000 square feet have two options: either to set aside 2,000 square feet of floor space, on- or near-site, that would be made available to a non-profit child care provider, rent and utility cost-free; or contribute $1 per square foot of space to the citywide Affordable Child Care Fund, established solely for the purposes of the ordinance, and to be administered by the Mayor's Office.[31] The ordinance was weighted so that money would go into the Fund to give the City more control over planning.[32]

An in-lieu fee also enables developers to avoid the cost and time required to plan a center and get government approval for it. Most ordinances require that developers who choose the space option prepare a needs assessment -- to estimate the child care needs generated by the proposed project -- and then propose a

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[31]The City of San Francisco. Child Care Ordinance, Section 165 & 315.

[32]Interview, Abby Cohen, Attorney, Child Care Law Center and CCAC National Advisory Panel Member, San Francisco, CA, December 1989.

plan to address how the new child care needs will be met.[33]

Developers who build child care commonly enter into a contract with the local government agreeing that the center will be built and how the program will be operated and funded. Developers often prefer to pay the fee because they do not want to become involved with additional bureaucratic processes, particularly since most do not see themselves as being in the child care business.[34]

Fees Bypass Zoning Problems

Fees bypass licensing and zoning issues, making linkage more attractive to developers. Incompatibilities between state or local zoning and building codes and linkage requirements for child care, are one of the biggest hindrances to the passage of linkage policies. Conflicts often emerge between developers and linkage advocates over building codes and restrictions that developers view as impeding their ability to construct child care space and meet their linkage requirements, and that child care advocates see as important to maintaining standards for safe, quality child care.

Developers building in downtown settings, may, for example, encounter state and local regulations that require that child care be on the first floor -- often a developer's most valuable space -- and with requirements for an outdoor play area, which may not be possible in a downtown high rise.[35]

However, building codes can be altered so that they are compatible with local initiatives. In Massachusetts, for example, a recent statewide building code change was made to permit infants to receive child care above the first floor.[36]

Communities instituting child care linkage should examine how their building and licensing standards may affect the development of child care facilities under linkage and determine whether or not changes in the existing standards should be made.

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[33]The City of Danville. Ordinance Number 89-2, February 23, 1989.

[34]Interview, Catherine J. Ertz-Berger, Executive Director, Contra Costa Child Care Council, Concord, CA, December 1989.

[35]Interview, Mark Appell, Project Manager, Stein & Company, Chicago, IL, March 1990.

[36]Interview, Gwen Morgan, Policy Consultant, Work/Family Directions and CCAC Board Member, Boston, MA, April 1990.

Opposition From Child Care Providers

An additional source of opposition to linkage may come from child care providers fearful of competition. Because most linkage space requirements stipulate that the operator of the child care center be a non-profit provider, in some instances, for-profit providers have banded together to campaign against linkage.

Planners need to develop a child care plan based on land use and need. They should be sensitive to providers' concerns, and make them realize that they would not be put out of business.[37]

The Developer Perspective On Linkage

In interviews with CCAC, developers expressed a range of views about linkage -- from hostile to supportive.

1. Linkage is an unfair tax -- but it's the cost of doing business in a community.

As Gregg Jordan, President of Hunneman Investment Management Company, in Massachusetts, puts it:

> "We see linkage legislation as an added cost to doing business. It's an additional tax imposed on developers if they want to build."[38]

2. Opposing linkage may be bad public relations.

Developers are realizing that few have not been affected or touched by the need for child care, particularly as more and more women are working. Developers sometimes fear that if they challenge linkage legislation, their image in the community may be tarnished.[39]

3. Developers should not be singled out as the only ones to solve the child care crisis.

Marjorie Saltiel, Director of Boston Building Owners and Managers Association's Private/Public Initiative for Child Care, stresses that employers are a "missing partner" in linkage, and are not being asked to carry their weight. "We [developers] are

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[37]Jean G. Mesick, Senior Planner, City of Martinez, Martinez, CA, December 1989.

[38]Interview, Gregg R. Jordan, President, Hunneman Investment Management Co., Boston, MA, March 1990.

[39]Interview, Catherine J. Ertz-Berger, Executive Director, Contra Costa Child Care Council, Concord, CA, December 1989.

not saying "Why us?" but "Why just us?" says Ms. Saltiel.[40]

4. Developer legislation is not necessary because market conditions will force developers to offer child care on their own.

Some developers feel that child care mandates are unnecessary because current market conditions compel developers to offer child care if they want to remain competitive.

John Casazza, Assistant Vice President for Education with the National Association of Office and Industrial Parks, states:

> "Developers do not like to have to do something because it is mandatory. The current market conditions are enough to serve as a strong incentive for developers to provide child care."[41]

5. If linkage legislation is imposed, any additional development costs that are incurred by the developer will be passed on to the consumer or tenants.

In California, where most of the child care linkage ordinances have been implemented, some developers, concerned with the additional costs and bureaucracy they may encounter, have opposed their passage.

Developers, faced with the added expense of paying for child care, can pass the costs to their tenants or they can absorb the costs, either by lowering their profit margins or reallocating their funds by, for example, downgrading a project's landscaping or sculptures.[42] Developers argue that, in the long run, homebuyers, renters, or commercial tenants will pay the major share of development impact fees and costs.[43]

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[40]Interview, Marjorie Saltiel, Director, Private/Public Initiative for Child Care, Boston, MA, December 1989.

[41]Interview, John Casazza, Vice President, National Association of Industrial and Office Parks, Arlington, VA, December 1989.

[42]Interview, Cheri L. Sheridan, President, PKI Co. and CCAC National Advisory Panel Member, Chantilly, VA, May 1990.

[43]Forrest E. Huffman and Marc T. Smith, "Market effects of Office Development and Linkage Fees," American Planning Association Journal (Spring 1988): p. 40.

Chart #1: KEY ELEMENTS OF ESTABLISHED LINKAGE ORDINANCES*

LOCATION	YEAR ORDINANCE ENACTED	RESIDENTIAL (R) OR COMMERCIAL (C)	MIN. SIZE OR VALUE	DEVELOPER SPACE AND/OR FEE CONTRIBUTION	TARGETED CHILD CARE BENEFICIARIES	ESTIMATED NO. OF CENTERS TO BE BUILT**	ESTIMATED NO. OF SPACES	TOTAL AMOUNT OF DEVELOPER FEES[1] COLLECTED
BOSTON, MA	1989	C	100,000 sq. ft. or more	Space: between 2% to 12% of gross floor area	Building employees/ Boston residents	6	480	N/A
CLAYTON, CA	1988	C R	over 2,500 sq. ft. over 1 bedroom	Space: determined by needs assessment Fee: determined by needs assessment	Preschool/ School-aged	1	unknown	0
CONCORD, CA	1985	C	over $40,000 in value	Space: determined by needs assessment Fee: .5% of development cost	Not Specified	1	50	$1,055,000 (yearly average: $210,000)
CONTRA COSTA COUNTY, CA	1988	C R	having 100 or more employees or 15,000 sq. ft. or more over 30 units	Space: determined by needs assessment	Not Specified	12	289	$412,000
DANVILLE, CA	1989	C R	all developments over 50 units	Space: determined by needs assessment Fee: for C: $.25/sq.ft. of net leasable area for R: determined by needs assessment	Preschool/ School-aged	2	100	$250,000 contribution by town in anticipation of developer fees to be collected
MARTINEZ, CA	1990	C R	over 2,500 sq. ft. over 1 bedroom	Space: determined by needs assessment Fee: estimated fair market value of land and construction costs for development	Infant/ School-aged	1	unknown	0
SAN FRANCISCO, CA	1985	C	50,000 sq. ft. or more	Space: minimum of 3,000 sq. ft. Fee: $1 x gross sq. ft. office space	Low/Moderate Income Households	2	unknown	$900,000 pending
SAN RAMON, CA	1987	C R	2,500 sq. ft. or more over 1 bedroom	Space: determined by needs assessment Fee: determined by needs assessment	School-aged	3	200	$50,531, plus $370,000 loan from other sources in anticipation of developer fees to be collected

* As of June 1990

** Includes those currently under construction as well as those seeking approval from the local planning board.

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Linkage: The Results To Date

Six of the eight linkage ordinances that have, so far, been implemented in the California cities of Clayton, Concord, Danville, Martinez, San Francisco, and San Ramon, in Contra Costa County, California, and in Boston, Massachusetts, have been passed since 1987. Because of the long term nature of real estate development, we can make only a preliminary evaluation of how effective linkage has been in increasing the supply of child care, or in allocating additional community dollars for child care. However, linkage has already increased the supply of child care in many of the locations in which it has been implemented. [See Chart #1, pg. 17: Key Elements of Established Linkage Ordinances.]

Since 1985, Concord, California's Child Care Program has collected an average of $210,000 per year in developer fees, for a total of $1,055,000. Concord has contracted out its Child Care Program to the Contra Costa Child Care Council, a local resource and referral agency, which has used the developer fees to subsidize child care for approximately 26 children a month. According to Ms. DuBorg, Director, City of Concord Urban Resources Division, in California:

> "There is a general consensus that it [linkage] is working. We have in place a committed funding source for child care which would not have been there otherwise."[44]

In addition, a Quality Enhancement Program has also been initiated. Sixteen child care providers have assessed the quality of their services and have been awarded certificates which vouch for the quality of their program. An additional 44 providers are currently enrolled in the assessment program and over 125 providers have participated in a provider training and development program.

The potential impact of San Francisco, California's 1985 linkage ordinance was compromised by Proposition M which passed one year later. Proposition M imposed additional limits on the amount of downtown construction and total square footage of office space that could be built in a given year. Between 1985 and 1989, no new child care space was built subject to the linkage requirement, nor have any fees been paid to the Affordable Child Care Fund. Five projects subject to linkage requirements are now pending. They are expected to add approximately $900,000 to the Affordable Child Care Fund within the next three to five years.

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[44]Interview, Lydia DuBorg, Director, City of Concord Urban Resources Division, Concord, CA, December 1989.

In San Ramon, California, linkage fees are funding three school-aged child care centers. The centers provide care to nearly 200 children. To date, $50,530 has been collected in fees from developers. Moreover, the City has contributed $250,000 of its own money and has borrowed $120,000 from the San Ramon Valley School Age Child Care Alliance to construct child care facilities in anticipation of developer fees to be collected.

In Danville, California, no fees have been collected but the town of Danville has contributed $250,000 in anticipation of developer fees to be collected. The result: two child care centers located on elementary school grounds will be completed in June 1990, serving approximately 100 children.

In Boston, Massachusetts, six development projects are currently in progress. City planners predict that these projects will create nearly 480 new spaces for child care.

In Contra Costa County, California, 12 development projects are scheduled to comply with the linkage requirements by 1992. Ten of the projects will be new centers creating approximately 289 child care spaces. Two are recruitment and training projects for family day care providers, funded by developer fees.

In Clayton, California, one large residential development is scheduled for construction and has been approved by the local planning board. The development will include a child care facility.

The Martinez, California ordinance, adopted in 1990, is the most recent linkage ordinance passed. Currently, one residential project is being planned that will contribute either space or funds to child care.

Linkage: The Pros

Linkage has increased the child care supply, improved access, and in some instances improved the quality of child care in many of those communities where it has been implemented. Linkage can have its largest impact on child care if it is implemented in an early stage of community growth and development.

Linkage can be used to offer child care to individuals who most need it, such as low and moderate income families, and to school-aged or infant children. Linkage can also be a tool to stimulate community leaders in both the public and private sectors, to incorporate child care into an overall community plan.

Linkage: The Cons

The success of linkage legislation is heavily dependent on a community's economic condition. However, economic growth and stability can not be predicted with any certainty. Massachusetts, for example, is experiencing an economic slowdown after many years of rapid expansion and construction.

Representative David B. Cohen in Massachusetts expresses his frustration with the process of linkage:

> "We are now faced with a budget deficit....in effect, what has happened is that linkage pales by comparison to our other problems....It takes a few years to get legislators supportive....now they are knowledgeable about the problem but the economic climate has gone sour....the rug has been pulled from under us....we will keep pushing on the bill, but we do need to be realistic about the lay of the land."[45]

Linkage will not address the pre-existing child care needs in a community. Legally, linkage can address only the needs created by new development, and the recipients of linkage can only be those whom the new developments service. Says Davis, California's Child Care Coordinator, Willa Pettygrove:

> "Linkage will not solve the problem of subsidized care for all low income families....It will also not solve the problem of low pay for child care staff."[46]

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[45]Interview, The Honorable David B. Cohen, State Representative, Massachusetts, Child Care Linkage Coalition, Boston, MA, February 1990.

[46]Interview, Willa Pettygrove, Child Care Coordinator, Davis, CA, December 1989.

CHART A WHERE HAVE DEVELOPER INITIATIVES BEEN IMPLEMENTED?

Location	Linkage	Bonus
California:		
Clayton, CA	X	
Concord, CA	X	
Contra Costa County	X	
Danville, CA	X	
Irvine, CA		X
Martinez, CA	X	
San Francisco, CA*	X	
San Ramon, CA	X	
Connecticut:		
Hartford, CT		X
Massachusetts:		
Boston, MA	X	
Ohio:		
Cincinnati, OH		X
Oregon:		
Portland, OR		X
Washington:		
Seattle, WA		X

WHERE ARE DEVELOPER INITIATIVES UNDER CONSIDERATION?

Location	Linkage	Bonus
California:		
Antioch, CA	X	
Davis, CA	X	
Los Angeles, CA		X
Napa, CA	X	
Pasadena, CA	X	
Sacramento, CA	X	
Santa Cruz County	X	
Sunnyvale, CA	X	
Vallejo, CA	X	
Massachusetts:		
Massachusetts**	X	
New Jersey:		
New Jersey**	X	
New York:		
New York City, NY	X	
Pennsylvania:		
Pittsburgh, PA	X	
Wisconsin:		
Milwaukee, WI	X	

* The initiative is being implemented in both the city and county
** The initiative is being considered for the entire state

ZONING INCENTIVES: BONUSES

Zoning incentives are a planning tool used to encourage developers to provide a needed community service. Unlike linkage, zoning initiatives do not mandate developers to comply with legislation; they offer incentives to developers to build child care. Bonuses are one of the most popular and widely publicized zoning incentives for child care.

What Is a Bonus?

A bonus permits a developer to construct a project beyond what existing zoning regulations allow in exchange for the provision of a community service. Also referred to as density bonuses, amenity credits, or bonus ratios, bonuses are intended to entice developers to provide community services such as park space, public plazas and courtyards, affordable housing, and most recently, child care.

A bonus for child care may work in the following way: for every one square foot of child care space a developer constructs, a developer is permitted to add an additional six square feet of office space, for example, to their development project. In this way, developers receive a reward -- additional floor area -- in exchange for child care.

Where Do Bonuses Exist?

Bonuses for child care are offered to developers in five communities: Cincinnati, Ohio; Hartford, Connecticut; Irvine, California; Portland, Oregon; and Seattle, Washington. The City of Los Angeles is currently writing a child care bonus provision. Planners in communities throughout the country are also considering the implementation of child care bonuses. [See Chart A, pg. 21 for a complete list of where developer initiatives have been implemented or are currently under consideration.]

Goals Of The Bonus

To Increase the Supply of Child Care

The primary rationale for instituting a bonus is to increase the supply of child care in a community.

To Bring Child Care Downtown

The Seattle, Washington bonus was adopted as part of a larger comprehensive plan for downtown. City officials and planners, in an effort to develop downtown. City officials and planners saw child care as a necessary community service that would help attract employees and residents to the downtown

area.[47]

To Target Recipients of Child Care

Of the five bonus provisions CCAC has identified, only Seattle, Washington, targets specific groups to receive priority for the use of the child care.

The Seattle, Washington bonus requires that preference for child care space be given to low and moderate income employees working within the downtown project. Child care services must be set at rates that are affordable to the range of income levels represented in the downtown workforce, and at least 20% of the spaces must be reserved for low-income families.[48]

Making the connection between child care and the ability of parents to work, Hartford, Connecticut's, City Manager Al Gatta proposed a bonus because he believed that the availability of child care would encourage workers at low wages to enter and remain in the labor force.[49]

Designing The Bonus

There are several ways that community planners can encourage developers to choose a child care bonus over other zoning options that are often available to them.[50]

How Much Is Enough?

The size of the bonus -- the amount of additional square footage -- a developer may receive will play an important role in a developer's decision to take advantage of the child care bonus. Communities should set the bonus at a level that will offer sufficient incentives for developers to make it worth their while to increase the size of their development project beyond the existing zoning limits, but without being so large as to lose

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[47]Interview, Rebecca Herzfeld, Manager, Code Development & Coordination Section, Department of Construction and Land Use, Seattle, WA, December 1989.

[48]City of Seattle, Department of Construction and Land Use, Directors' Rule 16-89, Chapter 23.49 SMC, Section BB, Child Care. June 1, 1989.

[49]Interview, Al Gatta, City Manager, Hartford, CT, December 1989.

[50]For an example of a bonus, see the 1985 City of Seattle Child Care Bonus, Appendix IV, page 46.

what the community was regulating in the first place.

A high bonus for child care often reflects a community's commitment to child care. Seattle, Washington's Downtown Bonus Rule offers developers a lengthy list of bonusable services that they may build in addition to child care, including parking, atriums, and walkways. Billie L. Young, Child Care Coordinator, City of Seattle, Washington, Department of Family and Youth Services, and CCAC National Advisory Panel Member, says:

> "Child care is one of the many bonuses that developers may select, however, child care has the largest incentive. They [developers] can't build the biggest building without child care."[51]

What are the Requirements?

The requirements imposed upon developers can influence their decision to select the child care bonus. Some bonuses lay out detailed procedures and operating guidelines for developers to follow, while others leave most decisions to the developer.

For example, the Seattle, Washington child care bonus explicitly states that the developer must:

> "[Make space] available to a nonprofit organization....at least a three-year lease....finish the space with ceilings, walls, flooring, utility connections and other improvements....[and] the child care center shall not be charged rent or any building space related fees."[52]

In Hartford, Connecticut, Cincinnati, Ohio, Irvine, California, and Portland, Oregon, there are no requirements that the child care centers serve targeted clientele, nor are developers required to subsidize centers.

How Flexible is the Bonus?

Bonus provisions can offer developers some flexibility. Irvine, California's bonus allows developers at least a five year period during which, if the developer can show that there is no demand for the center or the provider is having financial difficulty, the center may be closed and the space used for an alternative purpose.

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[51]Interview, Billie L. Young, Child Care Coordinator, City of Seattle, Department of Human Resources, and CCAC National Advisory Panel Member, Seattle, WA, December 1989.

[52]The City of Seattle, Directors' Rule 16-89, Chapter 23.49 SMC, Section BB, Child Care, June 1, 1989.

Seattle, Washington's bonus requires developers to maintain the child care center for the life of the building but also gives developers the flexibility to remove the child care center. If, after three years, it is determined by the developer and agreed upon by the local planning authority, that the operation of a child care center in the space is no longer feasible or desirable, the developer may exercise a buy-out option.[53]

In Seattle, Washington, the buy-out funds are to be paid to the Downtown Health and Human Service Fund. The buy-out amount is based on the amount of child care space allocated in the project, and the amount of additional square footage that was awarded to the developer as a result of the child care bonus. To date, no developer has used the buy-out option.

Marketing the Bonus

Developers need to know that the child care bonus exists before they can take advantage of it -- marketing and education are key. In Seattle, Washington, where two developers have used the child care bonus, the political environment was supportive of child care even before the bonus provision. The child care bonus, however, was widely publicized by city officials.[54]

In Cincinnati, Ohio, once the provision was passed, there was virtually no follow-up with developers to encourage them to use the bonus. No developer has taken advantage of the child care bonus in Cincinnati.

The Developer Perspective On Bonuses

1. Incentives are preferable to mandates.

In general, real estate developers prefer carrots to sticks. Developers find the child care bonus appealing because they can choose whether or not to build child care.[55]

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[53]City of Seattle, Department of Construction and Land Use, Directors' Rule 16-89, Chapter 23.49 SMC, Section BB, Child Care, June 1, 1989.

[54]Interview, Billie L. Young, Child Care Coordinator, City of Seattle, Department of Human Resources, and CCAC National Advisory Panel Member, Seattle, WA, December 1989.

[55]Interview, Marjorie Saltiel, Director, Private/Public Initiative for Child Care, Boston, MA, December 1989.

2. Bonuses can be a good marketing tool.

Developers who build child care see themselves as having an upper hand in a competitive market. Steve Trainer, Senior Vice President with developer Wright Runstad & Company in Seattle, Washington tells of his experience with the child care bonus:

> "We see that there is a potential marketing benefit by providing child care in the complex. We think that we may really see the marketing benefits when our tenants think about relocating. The child care center may become a reason why they decide to remain in the building rather than seek out other space."[56]

3. Building codes and licensing regulations are sometimes incompatible.

As with linkage legislation, sometimes state or local building codes and licensing regulations are incompatible with child care bonuses. In Cincinnati, Ohio, City Councilman Guckenberger believes that such incompatibilities may be a reason why their Day Care Bonus is not used:

> "The city requires a very strict license for child care. We have requirements that there has to be a play area attached to a center. In the downtown area, that's a difficult requirement to meet."[57]

Mr. Trainer from Wright Runstad in Seattle, Washington, explains:

> "We have offered day care in the bottom floor of our Washington Mutual Tower building for infants and toddlers. We selected this age group because the zoning codes require that preschoolers have an outdoor play area. This would have been difficult....Codes should be set to encourage development, particularly in a downtown setting, if child care is to be made easier to build."[58]

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[56]Interview, Steve Trainer, Senior Vice President, Wright Runstad & Co., Seattle, WA, April 1990.

[57]Interview, City Councilmember Guy C. Guckenberger, Cincinnati, OH, February 1990.

[58]Interview, Steve Trainer, Senior Vice President, Wright Runstad & Co., Seattle, WA, April 1990.

Bonuses: The Results To Date

Bonuses for child care can be one way for communities to encourage child care to be a part of a development project, but they cannot be relied upon to address the child care shortage in a community. While no bonus plans have significantly increased the supply of child care in a community, many bonus rules have played a positive role in increasing developer and employer awareness of the merits of child care. [See Chart #2, page 28: Key Elements of Established Bonus Programs.]

In Seattle, Washington, since 1985, only two developers have built child care centers as a result of the bonus. These two centers together serve a total of 100 children. An additional project has been approved that will provide up to 20 spaces for child care. Ms. Young, City of Seattle Child Care Coordinator and CCAC National Advisory Panel member, states:

> "Since the development of the bonus, there has been a ripple effect where developers are realizing that this [child care] is a good amenity, and that they [developers] should be including child care in their projects."[59]

The Seattle Citizen's Alternative Plan (CAP), passed in May 1989 may impede future use of the bonus. This Plan places limits on downtown construction, lowering height and floor ratios, and setting annual limits on new office space that can be built through 1999.

Only one developer has used the 1984 Hartford, Connecticut bonus. The development will provide 90 child care spaces for employees within the office complex.

Irvine, California's bonus for child care, in existence since 1988, has been used by two developers. Completion of the projects are expected between 1991 and 1993. It is anticipated that these developments will provide a total of 206 child care spaces.

In Portland, Oregon, one developer has taken advantage of the bonus, and plans to build a 5,000 square foot child care center in exchange for an additional 15,000 square feet of office space. The project is scheduled for completion in 1991.

In Cincinnati, Ohio, no developer has taken advantage of the bonus provision for child care.

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[59]Interview, Billie L. Young, Child Care Coordinator and CCAC National Advisory Panel Member, Seattle, WA, December 1989.

Chart #2: KEY ELEMENTS OF ESTABLISHED BONUS PROGRAMS*

LOCATION	YEAR BONUS ENACTED	RESIDENTIAL (R) OR COMMERCIAL (C)	TARGETED CHILD CARE BENEFICIARIES	CAN DEVELOPER CHARGE THE CENTER RENT?	TERM REQUIRED FOR CENTER TO BE IN BUILDING	HOW MUCH OF A BONUS TO DEVELOPER**	HOW MANY CENTERS HAVE BEEN BUILT OR ARE PENDING DUE TO BONUS?***	ESTIMATED NO. OF SPACES
CINCINNATI, OH	1987	C	Not Specified	Yes	40 yr. Minimum	1:1.5	0	0
HARTFORD, CT	1984	C	Not Specified	Yes	20 yr. Minimum	1:6	1: pending	90
IRVINE, CA	1988	C	Not Specified	Yes	5 yr. Minimum	1:1.5	2: pending	206
PORTLAND, OR	1988	R/C	Not Specified	Yes	Life of Building	1:3	1: pending	unknown
SEATTLE, WA	1985	C	• Building employees • 20% space for low income families	No	Life of Building	Ranges from 1:3.5 to 1:16	2: built 1: pending	115-120

* As of June 1990

** The notation 1:6 indicates that for every square foot of child care space, a bonus of 6 square feet of additional floor area will be awarded to the developer.

*** Includes those projects currently under construction as well as those seeking approval from the local planning board.

Bonuses: The Pros

Bonus incentives are easily incorporated into local planning codes and are a non-confrontational way to increase the supply and stimulate public and private sector awareness to the need for child care. Some bonus provisions have helped to increase developer and employer awareness of the merits and importance of offering child care in their buildings.

Bonuses: The Cons

The success of a bonus program is highly dependent upon the value a community places on child care compared to other community services. The bonus must be widely publicized and an individual should be appointed by the municipality to provide technical assistance and outreach services. In addition, for a bonus to be most effective, it should be incorporated into a planning code in an early stage of a community's growth and development. Without sufficient follow-up and critical examination of the existing licensing and building requirements on the part of local officials, a bonus for child care may have no impact.

LINKAGE VERSUS BONUSES

Eight communities have adopted linkage, five have adopted bonuses. Of the 14 communities considering developer initiatives, all but one are considering linkage. Linkage has created over 1,000 spaces for child care and resulted in $3 million for child care. Bonuses have created a total of 416 new spaces for child care.

The passage of a linkage ordinance may consume large amounts of government time, personnel, and financial resources primarily because developers frequently oppose and organize against such linkage proposals. However, once linkage is passed, the data show (assuming the economic, regulatory, real estate, etc. conditions are strong) positive child care effects. On the other hand, although bonus programs require little time to incorporate into a community plan and that developer opposition to bonuses is nonexistent, a community must expend resources on educating developers about the bonus and encouraging them to use it.

Bonuses succeed where the community has been heavily involved in the planning and coordinating child care. Child care will be created, first, if developers select the bonus provision, and second, if the economic environment is conducive to development. Yet, bonuses are subject to the same economic constraints as linkage. Growth limits, such as Seattle's CAP Initiative and San Francisco's Proposition M, and economic slowdowns, will affect the development of child care regardless of the developer initiative policy that is in place.

Like linkage, bonuses serve a limited group of the total population who needs child care. Recipients of child care are usually employees or residents of the new projects. The child care needs of those already living and working in the communities are not primarily addressed by these initiatives.

CONCLUSION

Developers, and initiatives that encourage their participation, can be one part of a community's overall approach to addressing the need for child care. Linkage and bonuses <u>can</u> improve the child care situation in communities that are experiencing growth. More and more states, counties, and cities are considering linkage and bonuses to help finance child care.

Developer initiatives have, in some communities, improved the child care situation by:

- increasing the supply of, or access to, child care.
- raising and local awareness of the child care crisis.

- creating a role for developers in financing child care.

- encouraging public and private leaders to form partnerships and work together to expand and improve child care.

- enabling communities to incorporate child care into their community planning.

In other communities, developer initiatives have, so far, had only a limited impact on the child care scene. The success of developer initiatives is heavily dependent on the amount of existing and expected growth and development in a community, the economic, regulatory, political, and legal environment, and the development process itself, i.e. the amount of time it takes to complete a project.

POLICY RECOMMENDATIONS

Advocates for developer initiatives must weigh the effort of implementing such legislation against the potential results. In order to determine first if linkage or bonuses should be considered, and how to make such developer initiatives as effective as possible, community leaders, planners, and child care advocates should:

1. Evaluate Market Conditions

A community must thoroughly analyze its present and future real estate, employment, and demographic trends. The demand for, the availability of, and the price of child care must be assessed. Particularly in downtown settings, an analysis of whether parents will commute to work with their children is key. Evaluating the market conditions will offer some insight into whether a developer initiative can work, and which initiative -- linkage or bonus -- may be the most appropriate.

For either linkage or bonuses to be effective, a community must plan for these initiatives early in their growth and development stage.

2. Define Your Goals

Is the purpose of the initiative to build child care space, address affordability and quality, or encourage downtown employment? The goals will guide planners in determining the type of developer initiative to implement and how the initiative should be written.

3. Involve the Public and Private Sectors in Planning

Particularly with linkage, it is important that key community leaders be brought into the planning and development of the legislation early on. Involvement of developers, employers, and child care providers will reduce the likelihood of opposition and help build a consensus. By encouraging partnerships, a community can more efficiently plan for child care and address the needs of all its constituents.[60]

4. Launch a Public Education and Outreach Campaign

The more often child care is in the news, including information to parents about its advantages, and to developers about how they can play a role in child care, the more successful

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[60]Euben and Reisman, Making the Connections: Public Private Partnerships in Child Care. (Child Care Action Campaign: New York) 1990.

about how they can play a role in child care, the more successful a developer initiative can be.

A public education program will help developers and employers realize the potential benefits of an investment in child care. Such a campaign can stimulate community, developer, and employer involvement in child care.

5. Coordinate the Regulatory Processes

If developers are to be encouraged to use or support a developer initiative, the regulatory process needs to be streamlined to remove unnecessary obstacles to developer participation.

Communities that want developers to build child care space should give serious consideration to the way their state and local laws affect the development of child care facilities, and how they can improve the responsiveness of the regulatory agencies and processes that affect child care. However, communities should use caution; building and licensing requirements that maintain quality, safe child care should be protected.

6. Provide Guidance to Developers

Most developers are not, and do not desire to be, in the child care business. Developers need help identifying options for the selection of a child care provider: the design of a child care facility; up-to-date information on child care demands and costs; information on liability insurance; and assistance on how to comply with regulations and building codes from an easy to locate source. A community should designate at least one individual who will be responsible for providing such guidance to developers.

7. Institute an Evaluation and Tracking Mechanism

Communities implementing a developer initiative should devise a system to monitor its effectiveness. Such a tracking system would enable community officials to evaluate how the developer policy affects the availability of child care, as well as to provide information to policymakers and child care advocates who are considering adopting a developer initiative in their own communities.

8. Integrate Developer Initiatives into an Overall Community Plan for Child Care Delivery

Developer initiatives can have a positive impact on the supply and affordability of child care in a community. Policymakers should encourage developers along with other

business leaders, to contribute to the infrastructure and human service needs of the community, and become partners in an overall community plan to improve the quality of, and access to, affordable child care.

APPENDIX I

GLOSSARY OF TERMS

Definitions are excerpted from A Glossary of Land Use Planning Terms for the Child Care Community, The Child Care Law Center, San Francisco, CA 94105

Bonus:
The awarding of additional development rights than ordinarily permitted by-allowing more intensive use of the land in exchange for development of public benefits, such as: plazas, courtyards, parks, and child care.

Building Code:
Regulations governing new building design, construction and maintenance, alteration and repair of existing buildings. The codes regulate the use of various materials, and electrical, plumbing, and heating requirements for a particular type of occupancy. Policies vary in different cities and within cities so far as enforcement is concerned.

Comprehensive Plan:
A document of text, charts, graphics, or maps, or any combination, designed to portray general, long-range proposals for the arrangement of land uses which is intended primarily to guide government policy toward achieving orderly and coordinated development of the entire community.

Density:
The number of dwelling units per gross acre in any residential development.

Impact Fee:
Charges imposed by local governments on new development to offset the cost of building new or expanding existing facilities (such as parks, sewer and water lines, child care, housing) to serve that development.

Infrastructure:
Streets, water and sewer lines, and other public facilities necessary to the functioning of an urban area.

In-lieu Fee:
Cash payments required as a substitute for a dedication of land by an owner or developer.

Ordinance:
Typically a municipal statute which governs areas that are not already covered in a detailed fashion by federal or state law. Zoning, safety, and building codes are usually local ordinances. Adoption of ordinance generally requires a public hearing(s) and publication of the complete text of the ordinance in a local newspaper.

Zoning:
A police power measure, enacted by units of local government under a grant of authority from the state. Zoning regulations establish permitted uses that vary from district to district. They also control the placement, height, bulk, and coverage of structures within each of the districts.

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APPENDIX II

COMMON CHILD CARE ARRANGEMENTS

PARENTS today attempt to solve their child care needs in many ways. Some parents are able to arrange to have family members care for younger children. Other parents choose an arrangement available in the community. The common types of care are:

Care within the family, 47.8% of all working parents with children under age five use this type of care, which includes:

* Arranging work hours so that one parent is always home;
* Relying on a relative, older sibling or very close friend;
* Combinations of these arrangements.

Care in the community is used by over seven million parents. This includes:

* In-home care. A trained child care provider, nanny or babysitter comes to the child's home. This is a very expensive solution for full-time care, since one family pays the caregiver's salary.

* Shared care. Several families employ someone to care for all their children in one of their homes.

* Family child care. Several children are cared for by a single provider in her home.

* Group child care homes. A provider cares for a specified number of children in her home with assistance. Additional adults are employed as indicated by state requirements for staff:child ratios for the particular ages of the children receiving care.

* Child Care Centers. Centers may be full-day or part-day nursery schools, Head Start or pre-school. They serve larger groups of children and are located in buildings constructed or donated for that purpose.

* Mixed arrangements. Typically, parents make more than one arrangement for their child, combining part-day nursery schools with a home-based solution. Child care centers and family day care programs are often used by parents who do not work outside the home because of the educational and social benefits they can offer for children.

APPENDIX III

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Massachusetts

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The Commonwealth of Massachusetts
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APPENDIX III

San Francisco Child Care Ordinances, Sections 165 and 315.

SEC. 165. CHILD CARE PLANS AND CHILD CARE BROKERAGE SERVICES IN C-3 DISTRICTS.

(a) Purpose. This Section is intended to assure that adequate measures are undertaken and maintained to minimize the child care impacts created by additional office employment in the downtown, in a manner consistent with the objectives and policies of the Master Plan, by facilitating the development, expansion and maintenance of affordable, quality child care programs and auxiliary services, the latter including, but not limited to, resource and referral services.

(b) Requirement. For any new building or additions to or conversion of an existing building in the C-3 District where the gross square feet of new, converted or added floor area for office use equals at least 100,000 square feet, the project sponsor shall be required to provide on-site child care brokerage services for the actual lifetime of the project. For any new building or additions to or conversion of an existing building in the C-3 District where the gross square feet of new, converted or added floor area for office use equals at least 50,000 square feet, the project sponsor shall be required to provide child care brokerage services for the lifetime of the project, by either: (1) providing such services on-site or, (2) providing such services through a consortium of like-sized sponsors, where such services are made available within a radius of 2 city blocks from the sponsor's project or (3) subcontracting with a child care brokerage service already serving a project within a radius of 2 city blocks from the sponsor's project. Prior to the issuance of the first certificate of occupancy, the project sponsor shall execute an agreement with the Department of City Planning for the provision of child care brokerage services as provided in this subsection and preparation of a child care plan to be approved by the Director of Planning and implemented by the provider of child care brokerage services. The procedure set forth in Section 149(b) governing notice to the Zoning Administrator and issuance of the first certificate of occupancy shall also be applicable with respect to the requirements of this section. The child care plan and child care brokerage services shall be designed:

1. To promote the provision of on-site child care resource services and easily accessible child care referral services, using, to the maximum extent feasible, existing community agencies;

2. To promote where feasible, the development of on-site child care facilities, accessible and affordable to all segments of the community; to promote the development, expansion and maintenance of off-site child care facilities accessible and affordable to all segments of the community;

3. To promote and coordinate the development and use of open space for child care programs in the C-3 District;

4. To promote and coordinate the development of transportation services assisting employees who choose either to bring their children to on-site care or who seek means of transporting their children to off-site care;

5. To promote and encourage project occupants to adopt flex-time or staggered work hours programs, job-sharing programs, parental leave policies and dependent care assistance programs designed to accommodate the needs of working parents and their children;

6. To promote the development of parenting resources;

7. To promote the development of data collection, to document the numbers of worker parents in the project work force, number and ages of their children, supply of child care available to those parents, cost of available care, preferences for child care and need for special services; and coordinate such data collection with the data collection efforts of other project sponsors and the local resource and referral agency.

8. To carry out other activities determined by the Department of City Planning to be appropriate to meeting the purpose of this requirement.

SEC. 315. CHILD CARE REQUIREMENTS FOR OFFICE DEVELOPMENT PROJECTS.

(a) Definitions. The following definitions shall govern interpretation of this Section:

1. "Child care facility" shall mean a child day care facility as defined in California Health & Safety Code Section 1596.750.

2. "Director" shall mean the Director of City Planning or his or her designee, including other City agencies or departments.

3. "First certificate of occupancy" shall mean either a temporary certificate of occupancy or a Certificate of Final Completion and Occupancy as defined in San Francisco Building Code Section 307, whichever is issued first.

4. "Household of low income" shall mean a household composed of one or more persons with a combined annual net income for all adult members which does not exceed the qualifying limit for a lower income family of a size equivalent to the number of persons residing in such household, as set forth for the County of San Francisco in California Administrative Code Section 6932.

5. "Household of moderate income" shall mean a household composed of one or more persons with a combined annual net income for all adult members which does not exceed the qualifying limit for a median income family of a size equivalent to the number of persons residing in such household, as set forth for the County of San Francisco in California Administrative Code Section 6932.

6. "Net addition of gross square feet of office space" shall mean gross floor area as defined in Planning Code Section 102.8 to be occupied by, or primarily serving, office use, less the gross floor area in any structure demolished or rehabilitated as part of the proposed office development project space used primarily and continuously for office use and not accessory to any use other than office use for five (5) years prior to Planning Commission approval of the office development project subject to this Section, or for the life of the structure demolished or rehabilitated, whichever is shorter.

7. "Office development project" shall mean any new construction, addition, extension, conversion, or enlargement, or combination thereof, of an existing structure which includes any gross square feet of office space.

8. "Office use" shall mean space within a structure or portion thereof intended or primarily suitable for occupancy by persons or entities which perform, provide for their own benefit, or provide to others at that location services including, but not limited to, the following: professional, banking, insurance, management, consulting, technical, sales, and design or the office functions of manufacturing and warehousing businesses, but excluding retail uses; repair; any business characterized by the physical transfer of tangible goods to customers on the premises; wholesale shipping, receiving, and storage; design showcases or any other space intended and primarily suitable for display of goods; and child care facilities. This definition shall include all uses encompassed within the meaning of Planning Code Section 219.

9. "Retail use" shall mean space within any structure or portion thereof intended or primarily suitable for occupancy by persons or entities which supply commodities to customers on the premises including, but not limited to, stores, shops, restaurants, bars, eating and drinking businesses, and the uses defined in Planning Code Sections 218 and 220-225, and also including all space accessory to such retail use.

10. "Sponsor" shall mean an applicant seeking approval for construction of an office development project subject to this Section and such applicants' successors and assigns.

11. "Superintendent" shall mean the Superintendent, Bureau of Building Inspection.

(b) Findings. The Board hereby finds and declares as follows:

Large scale office developments in the City and County of San Francisco (hereinafter "City") have attracted and continue to attract additional employees to the City, and there is a causal connection between such developments and the need for additional child care facilities in the City, particularly child care facilities affordable to households of low and moderate income.

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Office uses in the City are benefited by the availability of child care for persons employed in such offices close to their place of employment. However, the supply of child care in the City has not kept pace with the demand for child care created by these new employees. Due to this shortage of child care, employers will have difficulty in securing a labor force, and employees unable to find accessible and affordable quality child care will be forced either to work where such services are available outside of San Francisco, or leave the work force entirely, in some cases seeking public assistance to support their children. In either case, there will be a detrimental effect on San Francisco's economy and its quality of life.

Projections from the EIR for the Downtown Plan indicate that between 1984 and 2000 there will be a significant increase in the number of jobs in the C-3 District under the Downtown Plan. Most of that employment growth will occur in office work. Clerical and administrative office work is done primarily by women. Additionally, the study projects that the greatest percentage increase in jobs will occur in hotel work, which also consists of a predominantly female work force.

According to the survey conducted of C-3 District workers in 1981, 65% of the workforce is between the ages of 25-44. These are the prime child-bearing years for women, and the prime fathering years for men. The survey also indicated that only 12% of the C-3 District jobs were part-time, leaving up to 88% of the positions occupied by full-time workers. All of these factors point to the inevitable increase in the number of working parents in the C-3 District and the concomitant increase in need for accessible quality child care.

Presently, there exists a scarcity of child care in the C-3 District and city-wide for all income groups, but the scarcity is more acutely felt by households of low and moderate income. Hearings held on April 25, 1985 before the Human Services Committee of the San Francisco Board of Supervisors documented the scarcity of child care available in the C-3 District, the impediments to child care program start-up and expansion, the increase in the numbers of children needing care, and the acute shortage of supply throughout the Bay Area. The Board of Supervisors also takes legislative notice of the existing and projected shortage of child care services in the City as documented by the Child Care Information Kit prepared by the California Child Care Resource((s)) and Referral Network located in San Francisco.

The scarcity o. child care in the City is due in great part to large office development which has attracted and will continue to attract additional employees and residents to the City. Some of the em loyees attracted to large office developments are competing with present residents for the few openings in child care programs available in the City. Competition for child care generates the greatest pressure on households of low and moderate income. At the same time that large office development is generating an increased demand for child care, it is improbable that factors inhibiting increased supply of child care will be mitigated by the marketplace; hence, the supply of child care will become increasingly scarce.

The Master Plan encourages "continued growth of prime downtown office activities so long as undesirable consequences of such growth can be avoided" and requires that there be the provision of "adequate amenities for those who live, work and use downtown." In light of these provisions, the City should impose requirements on developers of office projects designed to mitigate the adverse effects of the expanded employment facilitated by such projects. To that end, the City Planning Commission is authorized to promote affirmatively the policies of the San Francisco Master Plan through the imposition of special child care development or assessment requirements. It is desirable to impose the costs of the increased burden of providing child care necessitated by such office development projects directly upon the sponsors of new development generating the need. This is to be done through a requirement that the sponsor construct child care facilities or pay a fee into a fund used to foster the expansion of and to ease access to affordable child care as a condition of the privilege of development.

(c) Application.

1. This Section shall apply to office development projects proposing the net addition of 50,000 or more gross square feet of office space in the C-3 District as it existed on March 1, 1985.

2. This Section shall not apply to:

(A) Any office development project not located in the C-3 District as it existed on March 1, 1985;

(B) Any development project other than an office development project, including that portion of an office development project consisting of a retail use;

(C) That portion of an office development project located on property owned by the United States or any of its agencies;

(D) That portion of an office development project located on property owned by the State of California or any of its agencies, with the exception of such property not used exclusively for a governmental purpose;

(E) That portion of an office development project located on property under the jurisdiction of the the Port of San Francisco or the San Francisco Redevelopment Agency where the application of this Section is prohibited by State or local law; and

(F) Any office development project approved by the Planning Commission prior to the effective date of this Section.

(d) Imposition of Child Care Requirement.

1. The City Planning Commission shall impose conditions on the approval of applications for office development projects covered by this Section in order to mitigate the impact on the availability of child care facilities which will be caused by the employees attracted to the proposed office development project. The conditions shall require that the sponsor construct child care facilities on the site of the office development project or pay an in lieu fee to the City Controller which shall thereafter be used exclusively to foster the expansion of and ease access to child care facilities affordable to households of low or moderate income. The net addition of gross square feet of office space which the City anticipates is subject to this Section shall be set forth in any public notice and/or calendar item announcement of any Planning Commission hearing to review an office development project subject to this Section.

2. If the sponsor of an office development project subject to this Section elects to provide a child care facility on the premises of the office development project to meet the requirements of this Section, the space for the child care facility shall:

(A) Be provided to a non-profit child care provider without charge for rent, utilities, property taxes, building services, or any other charges of any nature;

(B) Comply with all applicable local and State laws;

(C) Have a minimum gross floor area of 3,000 square feet or an area determined according to the following formula, whichever is greater:

Net addition gross sq. ft. off. space X .01 = Sq. Ft. of Child Care Facility.

(D) Be provided for the life of the office development project or as long as there is a demonstrated need. No decrease in area of the space to be dedicated to child care use under this Section shall be permitted without a finding by the City Planning Commission, after application by the sponsor or the sponsor's successor and a public hearing, that the sponsor has demonstrated that there is a lack of need for child care at such office development project.

3. If the sponsor of an office development project subject to this Section elects to pay a fee in lieu of providing an on-site child care facility, the fee shall be computed as follows:

Net addition gross sq. ft. off. space X $1.00 = Total Fee

Upon payment of the fee in full to the Controller and upon request of the sponsor, the Controller shall issue a certification that the fee has been paid. The sponsor shall present such certification to the Director prior to the issuance by the Superintendent of the first certificate of occupancy for the office development project. The

Superintendent shall provide notice in writing to the Director at least five (5) business days prior to issuing the first certificate of occupancy for any office development project subject to this Section. If the Director notifies the Superintendent within such time that the sponsor has not complied with the provisions of this Section, the Superintendent shall deny any and all certificates of occupancy. If the Director notifies the Superintendent that the sponsor has complied with this Section or fails to respond within five (5) business days, a certificate of occupancy shall not be disapproved pursuant to this Section. Any failure of the Superintendent or the Director to give any notice under this Subsection shall not relieve a sponsor from compliance with this Section.

4. The sponsor of an office development project subject to this Section may elect to satisfy its child care requirement by combining construction of a child care facility on the premises of the office development project with payment of an in lieu fee to the Affordable Child Care Fund. The child care facility to be constructed under this election shall be subject to all of the requirements of Parts (2)(A), (B), and (D) of this Subsection, and shall have a minimum area of 3,000 gross square feet. The in lieu fee to be paid under this election shall be subject to all of the requirements of Part (3) of this Subsection and shall be determined by the Planning Commission according to the following formula:

[Net add. of gross sq. ft. off. space - (gross sq. ft. of child care facility X 100)] X $1.00 = Total Fee

5. The final net addition of gross square feet of office space subject to this Section shall be determined by the Planning Commission and a child care requirement imposed according to the above formulae and shall be set forth in the Planning Commission resolution approving the office development project. Where the sponsor elects to pay an in lieu fee, the Director shall notify the Superintendent that the office development project is subject to this Section at the time the Planning Commission approves the office development project.

6. In the event that the the Planning Commission takes action affecting any office development project subject to this Section and such action is thereafter modified, superseded, vacated, or reversed by the Board of Permit Appeals, the Board of Supervisors, or by court action, the permit application for such office development project shall be remanded to the Planning Commission for a hearing within 60 days of the date on which such action is final to determine whether the proposed project has been changed in a manner which affects the area of the child care facility or the amount of the in lieu fee to be provided under this Section and, if so, the Planning Commission shall revise the child care requirement imposed on the permit application in compliance with this Section.

7. The sponsor shall supply all information to the Planning Commission necessary to make a determination as to the applicability of this Section and the number of gross square feet of office space subject to this Section.

8. Within three (3) months of the effective date of this Section, the City Planning Commission shall, after public notice and a hearing pursuant to Charter Section 3.500, adopt rules and regulations by which compliance with this Subsection shall be determined.

(e) Affordable Child Care Fund. There is hereby established a separate fund set aside for a special purpose called the Affordable Child Care Fund ("Fund"). All monies contributed pursuant to the provisions of this Section shall be deposited in the Fund. All monies deposited in the Fund shall be used solely to increase the supply of child care facilities affordable to households of low and moderate income. The Fund shall be administered by the Director, who shall adopt rules and regulations governing the disposition of the Fund which are consistent with this Section. Within six (6) months after the effective date of this Section, the Director shall publish in an official newspaper of general circulation in San Francisco proposed rules and regulations and notice of a public hearing on such rules and regulations. The public hearing shall be held within 30 days, but

not less than 10 days, from such notice. At the public hearing, the Director shall adopt final rules and regulations and submit the same to the Board of Supervisors forthwith. The Board of Supervisors shall hold a public hearing on the Director's final rules and regulations within 45 days of receipt from the Director, at which time the Board may amend such rules and regulations or adopt them in their entirety. Any further amendments to such rules and regulations shall be initiated by the Director and shall be adopted in accordance with the above procedure.

(f) Partial Invalidity and Severability. If any provision of this Section, or its application to any office development project or to any geographical area of the City, is held invalid, the remainder of the Section, or the application of such provision to other office development projects or to any other geographical areas of the City, shall not be affected thereby.

(g) Annual Evaluation. Commencing one year after the effective date of this Section and each year thereafter, the Director shall report to the Planning Commission at a public hearing and to the Planning, Housing & Development Committee of the Board of Supervisors at a separate public hearing on the status of compliance with this Section and the efficacy of this Section in mitigating the City's shortage of child care facilities available to employees working in office development projects subject to this Section. Five years after the effective date of this Section, the Planning Commission shall review the formulae set forth in Subsection (d). In such report, the Director shall recommend any changes in the formulae.

(h) Decrease in Child Care Formulae After Study. If the Planning Commission determines after review of an empirical study that the formulae set forth in Subsection (d) impose a greater requirement for child care facilities than is necessary to provide child care for the number of employees attracted to office development projects subject to this Section, the Planning Commission shall refund that portion of any fee paid or permit a reduction of the space in the office development project dedicated for child care by a sponsor consistent with the conclusions of such study. The Planning Commission shall adjust any sponsor's requirement and the formulae set forth in Subsection (d) so that the amount of the exaction is set at the level necessary to provide child care for the number of employees attracted to office development projects subject to this Section.

APPENDIX IV

KEY CONTACTS FOR INFORMATION ABOUT BONUSES

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88. Child Care

APPENDIX IV

1. Intent

The intent of the child care bonus is to provide a wide range of potential locations for day care centers for children which serve downtown residents and/or employees. The center shall meet the definition of a child care center as defined in the Land Use Code (SMC 23.84.018 - Institutions).

2. The child care center may be provided either on the same lot as the project using the bonus or on a different downtown lot.

3. Bonusable area

a. The minimum bonusable area per lot shall be one thousand square feet of interior gross floor area.

b. The maximum bonusable area per lot shall be ten thousand square feet, provided that after 3,000 square feet, the bonus ratio shall be the same as - that for the human services use locating in the same zone as the project using the added gross floor area.

c. All exterior play areas approved by the State Department of Social and Health Services shall be eligible for a bonus, provided that the space is not already part of another bonused public open space.

4. Clientele - Basic Standards

a. Each facility shall accept clients from the general public; however, a portion of the child care spaces may be reserved for people working in the building where the facility is located.

b. The child care center shall provide services at rates affordable to the range of income levels represented in the downtown workforce provided that at least 20% of the spaces must be reserved for low-income families (defined as at or below 80% of the median income of the Seattle SMSA).

c. Each facility shall show how the low-income client goal will be met. Methods to meet the goal shall include:

1. Accepting clients who participate in City, State or Federal day care subsidy reimbursement programs such as programs funded through the State Department of Social and Health Service (DSHS) and the Seattle Department of Human Resources (DHR); and/or

2. Utilizing a sliding fee scale which provides variable payment rates based upon family size and income; and/or

3. Providing a subsidy to low-income households equivalent to 1 or 2 above.

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d. Exceptions to the above requirements may be granted on a case-by-case basis by the Director of DCLU based upon the recommendation of the Director of DHR.

5. Leasing of space - Basic Standards

a. The developer shall secure at least a three-year lease with the operator of the child care center before any Certificate of Occupancy for the project using the bonus is issued.

b. The developer shall finish the space with ceilings, walls, flooring, utility connections and other improvements as required by the Seattle Building Code and the State Department of Social & Health Services to occupy as a child care center.

c. Any additional improvements beyond the minimum requirements may be provided either by the developer or the child care center operator, as specified in the lease agreement.

d. The child care center shall not be charged rent or any building space related fees. The operator shall be responsible for utilities, liability and property insurance, cleaning of the space, and maintenance of the facility in excess of routine building maintenance.

6. Provision of child care off-site - Basic Standards

Space for child care may be provided in a new or existing structure not on the lot where the additional floor area is used, provided the following standards are met in addition to those listed above:

a. When the child care is located in a different downtown zone, an adjusted development cost ratio shall be calculated by dividing the development cost per square foot of day care space in the zone where it is provided by the development cost per square foot for the same construction type in the zone where the project using the bonus floor area is located. This figure is then multiplied by the bonus ratio for the same construction type for the zone where the project using the bonus floor area is located, and the product is rounded to the nearest tenth. This figure is used to determine the amount of floor area earned through the child care bonus. In no case shall the adjusted ratio be higher than the ratio for the zone in which the project is located. (See example.)

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b. Developer obligations regarding rent and retaining the child care space in the building shall be controlled by a Development Agreement secured through a covenant or other suitable legal mechanism acceptable to the City. The costs of occupancy paid by the child care operator shall be reported annually to the Department of Human Resources (DHR).

c. The Development Agreement shall permit the developer to relocate the child care center to another downtown site or to lease the space to a different child care operator provided that the relocation or replacement is first approved by Director of Human Resources and the Development Agreement is modified in accordance with the approval granted by DHR.

7. Cost Figures and Bonus Ratios

Development Costs

	New Construction	Existing Space
DOC1, DOC2, & DRC zones	$125 per square foot	$65 per square foot
All other downtown zones	$105 per square foot	$65 per square foot

CHILD CARE SERVICES BONUS RATIOS

Project Location Zone	New Construction	Existing Space
DOC1	12.5	6.5
DOC2	16.0	8.0
DRC	6.5	3.5
DMC	11.0	5.5
DMR	8.0	4.0

*Ratios from Land Use Code

Example:

A developer in a DOC1 zone seeks a floor area bonus by providing 3,000 square feet of child care space in an existing building in a DMC zone.

1. The adjusted bonus ratio is calculated as follows:

   a. The development cost of providing the child care space in an existing building in the DMC zone is $65 per square foot.

   b. The ratio of the development cost for the child care space in DMC zones to the development cost in DOC1 zones = $65 per square foot/$65 per square foot = 1.0.

   c. The adjusted development cost ratio is multiplied by the child care bonus ratio to determine the adjusted bonus ratio = (1.0) (6.5) = 6.5.

   d. The amount of additional floor area received = (3,000 square feet)(6.5) = 19,500 square feet.

7. DHR Application Process

   a. All child care bonus proposals must be approved by the Department of Human Resources (DHR). DHR staff is available to help developers understand and use this Rule. DHR staff is also available to help link commercial developers with child care operators downtown. Developers are encouraged to contact DHR early in the development process to make maximum use of the Child Care Bonus Program benefits and features.

   b. Final approval by DHR will include review of the child care operator's lease, the Development Agreement, and any other legal agreements creating a linkage between the child care operator and the commercial project.

8. Timing and Performance Guarantees

   a. At the time the bonus authorization letter is issued for the commercial project, the bonus ratio will be established.

   b. All child care space provided to obtain this floor area bonus must be completed within six months of the issuance of the first Certificate of Occupancy for the commercial project.

9. Buy-Out Provisions

   a. All projects completed under this Child Care Bonus Program must be committed to providing child care services as specified for at least 3 years. If after 3 years it is determined by the Directors of DHR & DCLU that the operation of a child care center in the space is no longer feasible or desirable the developer may exercise a buy-out option.

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b. The requirement in the Development Agreement that the space for the child care operator be set aside rent free may be lifted by exercising a buy-out option at any time after 3 years. The terms and conditions of the buy-out shall be set forth in the Development Agreements, provided that the child care operator is given at least six months' advance notice. This buy-out will allow the space to be used for any legal use and the rent to rise to the market rate. The buy-out funds will be paid to the Downtown Health and Human Service Fund.

c. The amount of the buy-out shall be calculated by taking the additional square footage of commercial floor area granted for the child care bonus, dividing by the bonus ratio for new construction in the zone where the project using the bonus space is located and multiplying by $125 in DOC1, DOC2, and DRC zones and $105 in DMC and DMR zones. This figure is based on the approximate cost of providing an unfinished space for day care. This figure shall be increased by the percentage increase in the Consumer Price Index (CPI) for the Seattle area from the date of issuance of the initial Certificate of Occupancy for the project receiving the bonused floor area to the date on which the buy-out funds are paid.

Example:

A developer in a DOC2 zone received 20,000 sq.ft. of bonus space for providing child care space in an existing building in a DMR zone for 3 years and would now like to exercise the buy-out option:

1. The amount of the buy-out is calculated as follows:

   a. The square footage of the commercial floor area granted for the bonus is 20,000 sq.ft.

   b. The bonus ratio for new construction in a DOC2 zone is 16.0.

   c. The amount of the buy-out contribution is:

$$\frac{20{,}000 \text{ sq.ft.} \times \$125}{16} = \$156{,}250 + \% \text{ increase based on CPI}$$

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APPENDIX V

While the substance contained herein is CCAC's, the following CCAC National Advisory Panel members were especially helpful in our research:

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ABOUT THE CHILD CARE ACTION CAMPAIGN

The Child Care Action Campaign (CCAC), formed in 1983, is a national coalition of leaders from a wide range of American institutions: the media, government, corporations, unions, women's groups, academia. Our overall mission is to stimulate and support the development of policies and programs that will increase the availability of quality, affordable child care for the benefit of children, their families and the economic well being of the nation.

To accomplish this, CCAC provides information and original research to the public and to government and corporate policy makers about the needs of families with children, and the connection between these needs and national prosperity; and it advocates for additional investments in child care by employers, by labor and by federal, state and local governments.

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